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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/941,151	08/28/2001	Eric Chapoulaud	ORM-156CI	4585

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EXAMINER

BUMGARNER, MELBA N

ART UNIT	PAPER NUMBER
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3732

DATE MAILED: 05/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/941,151	Applicant(s) CHAPOULAUD ET AL.	
	Examiner Melba Bumgamer	Art Unit 3732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 120-132 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 120-132 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 129-132 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification does not describe the claimed limitation of “either approval for a custom orthodontic appliance for the patient or for revision.” The detailed of steps of dependent claims do not appear to be described in the specification.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 120-132 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Recitation of “the provided images”, “the person viewing the display”, “the display of the images” lack sufficient antecedent basis. It is unclear what is meant by “the individual anatomy of a patient”. It is unclear as to the number of practitioners and displays that are claimed in claim 130.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 120-132 are rejected as understood, under 35 U.S.C. 102(e) as being anticipated by Chishti et al. (5,975,893). Chishti et al. discloses a method of providing a custom orthodontic appliance for repositioning teeth comprising providing for display on a computer screen, with interaction by an operator, data of images of the teeth of the patient in suggested post-treatment tooth positions and orientations based on three-dimensional information of the shapes of the teeth, receiving feedback information from a person, other than the operator, who has interactively viewed, and providing a custom orthodontic appliance configured to reposition teeth. Operators can be treating professional or user, and feedback information being input from operators such as changes to the suggested tooth positions and orientations. As changes are incorporated, it is redisplayed.

Response to Arguments

7. Applicant's arguments filed January 27, 2006, as there were no arguments filed February 15, 2006, have been fully considered but they are not persuasive. It is still believed that the prior art shows the limitations of the claimed method. Applicant states on page 5 “[i]n summary, Chis[h]ti has displayed teeth before virtual repositioning, and again after virtual repositioning to final positions when all changes are complete” and on page 6 “Chis[h]ti fails to teach receiving

feedback information after the teeth are virtually repositioned in suggested post-treatment positions and displayed as so repositioned.” However, on page 9 of the response of December 21, 2005 or page 9 of the response of September 23, 2005, Applicant said “[f]eedback information would be irrelevant after the final arrangement is reached.” Therefore, Applicant’s remark on same pages 9 of “Chishti’s final tooth positions become applicant’s suggested tooth positions” would not be true. Furthermore, Applicant’s specification says “[t]he computer first calculates a suggested posttreatment setup of the teeth, which the orthodontist can modify and have recalculated until the final treatment positions of the teeth have been approved by the orthodontist.” The specification and Applicant’s arguments indicate that formerly claimed phrase “suggested tooth positions and orientations” and currently claimed phrase “suggested post-treatment positions and orientations” mean the same. Also the specification is clear throughout that the interactive process is between a computer and an operator. However, it is noted that cited Lehmann et al. (6,575,751) show an interactive method and network, wherein rather than data of information for operator to review, the operator is navigated through a step by step procedure for the final product. Also it is noted that Lehmann et al. teach direct consultation between two people, such as doctor and technician.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melba Bumgarner whose telephone number is 571-272-4709. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached at 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in cursive script, reading "Melba Bumgarner".

Melba Bumgarner
Primary Examiner